

Article 35.

Public Livestock Markets.

§ 106-406. Permits from Commissioner of Agriculture for operation of public livestock markets; application therefor; hearing on application.

Any person, firm or corporation desiring to operate a public livestock market within the State of North Carolina shall be required to file an application with the Commissioner of Agriculture for a permit authorizing the operation of such market; provided that, those markets operating under a valid permit and in accordance with G.S. 106-406 through 106-418 at the time this Article becomes effective shall be issued a license upon payment of the annual license fee and upon satisfying the requirement for bonding as specified in G.S. 106-407. An application for a permit shall include the following information:

- (1) The name and address of the applicant, name of market and a listing of the names and addresses of all persons having any financial interest in the proposed livestock market and the amount and nature of such interest, and such other information as is required to complete an application form supplied by the Commissioner; and
- (2) The plans and specifications for the facilities proposed to be built, or for existing structures.

The application for a permit shall be accompanied by a permit fee of two hundred fifty dollars (\$250.00), two hundred dollars (\$200.00) of which shall be returned to the applicant if the application is denied, plus one hundred dollars (\$100.00) annual permit fee for the first year of operation of the market, all of which shall be returned to the applicant if the application is denied. There shall be an annual renewal fee of one hundred dollars (\$100.00) for each year of operation thereafter.

Upon the filing of said application, the Commissioner shall determine whether all necessary information has been furnished. If all information required has not been furnished, the Commissioner shall notify the applicant by mail of the additional information needed; it shall be furnished the Commissioner by the applicant within 10 days of such notification. Upon receipt of all required information, the Commissioner shall issue a license or fix the date of a hearing on said application, to be held in Raleigh. Notice of the time and date of the hearing shall be published in a newspaper having general circulation in the county in which the livestock market is proposed to be located; said notice shall appear at least 10 days prior to such hearing. The applicant shall be notified by mail by the Commissioner at least 20 days prior to the hearing of the time and place of said hearing. The Commissioner shall also notify by mail the members of the Public Livestock Market Advisory Board of the time and place of said hearing, at least 10 days before the date [on] which the hearing will be held.

A public hearing shall be conducted by the Commissioner on said application. If, after the hearing, at which any person may appear in support or opposition thereto, the North Carolina Public Livestock Market Advisory Board finds that the public livestock market for which a permit or license is sought fulfills the requirements of all applicable laws, it shall recommend to the Commissioner that a permit be issued to the applicant. If the Commissioner denies the application, the applicant may commence a contested case under G.S. 150B-23 by filing a petition within 10 days after receiving notice of the denial. Unless revoked by the Board of Agriculture pursuant to any applicable law or regulation, permits will be renewed each July 1 on payment of the annual renewal fee. (1941, c. 263, s. 1; 1943, c. 724, s. 1; 1967, c. 894, s. 1; 1971, c. 739, s. 1; 1973, c. 1331, s. 3; 1975, c. 69, s. 4; 1977, c. 132, ss. 1-3; 1987, c. 827, s. 32.)

§ 106-407. Bonds required of operators; exemption of certain market operations.

The Commissioner of Agriculture shall require the owner of each public livestock market issued a permit under the provisions of G.S. 106-406 to furnish a bond acceptable to the Commissioner of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000), in the discretion of the Commissioner, to secure the performance of all obligations incident to the operation of the public livestock market operation including prompt payment to the vendors of all livestock sold at said market; provided, that, at the discretion of the Commissioner of Agriculture, a bond shall not be required of a livestock market bonded under the Federal Packers and Stockyards Act.

The term "public livestock market" as used in this Article shall not be interpreted to mean any of the following:

- (1) A market where horses and mules exclusively are sold;
- (2) A market that sells only finished livestock to be used for immediate slaughter;
- (3) A dispersal sale of livestock by a farmer, dairyman, livestock breeder, or feeder when all animals offered for sale have been owned by him at least 30 days; provided that, no more than one dispersal sale shall be held by any person, firm or corporation within any period of six months.
- (4) Purebred livestock association sales and those sales where Future Farmers of America, 4-H Clubs and similar groups, State institutions, or private fairs conduct sales of livestock. (1941, c. 263, s. 2; 1967, c. 894, s. 2.)

§ 106-407.1. North Carolina Public Livestock Market Advisory Board created; appointment; membership; duties.

There is hereby created the North Carolina Public Livestock Market Advisory Board composed of eight persons, all of whom shall be residents of North Carolina, who shall be appointed and the chairman designated by the Commissioner of Agriculture on or before August 1, 1967. Two members of said Board shall be livestock producers, two shall be licensed livestock market operators, one shall be a meat packer, one shall be the State Veterinarian, one shall be a duly licensed and practicing veterinarian and one shall be an employee of the markets division of the North Carolina Department of Agriculture and Consumer Services. On the initial Board, two members shall be appointed for terms of one year, two members for terms of two years, two members for terms of three years, and two members for terms of four years. Thereafter, all members shall serve four-year terms. Any vacancy on the Board caused by death, resignation, or otherwise shall be filled by the Commissioner of Agriculture for the expiration of the term. The terms of all members of the initial and subsequent boards shall expire on June 30 of the year in which their terms expire.

It shall be the duty of the members of the Board to attend all hearings on applications for licenses to operate public livestock markets. The Board may meet once each year, or more often if directed by the Commissioner, in Raleigh or such other place in North Carolina as directed by the Commissioner for the purpose of (i) discussing problems of the livestock market industry, (ii) proposing changes in the rules and regulations of the Department of Agriculture and Consumer Services relative to public livestock markets, and (iii) making such other recommendations to the Commissioner and the Board of Agriculture as it deems in the best interest of the livestock industry of North Carolina.

Members of the Board, except members who are employees of the State, shall receive as compensation, subsistence and travel allowances, such sums as by law are provided for other commissions and boards. Compensation, subsistence and travel allowances authorized for the Board members shall be paid from fees collected pursuant to this Article. (1967, c. 894, s. 3; 1977, c. 132, s. 4; 1981, c. 337; 1997-261, s. 109.)

§ 106-407.2. Revocation of permit by Board of Agriculture; restraining order for violations.

The Board of Agriculture may revoke a permit authorizing the operation of a public livestock market for a violation of this Article or a rule adopted under this Article.

If any person, firm or corporation shall operate a public livestock market in violation of the provisions of this Article, or the rules and regulations promulgated by the North Carolina Board of Agriculture, or shall fail to comply with the provisions of this Article, or rules and regulations promulgated thereunder, a temporary or permanent restraining order may be issued by a judge of the superior court upon application by the Commissioner of Agriculture, or his authorized representative, and the judge of the superior court shall have the same power and authority as in any other injunction proceeding, and the defendant shall have the same rights including the right of appeal, as in any other injunction proceeding heard before the superior court. (1967, c. 894, s. 4; 1973, c. 1331, s. 3; 1987, c. 827, s. 33.)

§ 106-408. Marketing facilities prescribed; records of purchases and sales; time of sales; notice.

All public livestock markets operating under this Article shall have proper facilities for handling livestock and such other equipment as specified by regulation of the North Carolina Board of Agriculture. Scales approved by the North Carolina Division of Weights and Measures shall be provided at public livestock markets where animals are bought, sold or exchanged by weight. The premises, including yards, pens, alleys, and chutes shall be cleaned and disinfected in accordance with regulations promulgated by the Board of Agriculture pursuant to the authority contained in G.S. 106-416. The market shall keep a complete legible permanent record, including the use of numbered invoices, showing the name and address of the person or firm from whom all animals are received and the name and address of the person or firm to whom sold. Symbols in lieu of names shall not be used. The weight, if sold by weight, and the price paid and the price received shall be recorded on the invoice. Such records as specified in this section shall be available for inspection to the Commissioner of Agriculture or his authorized representative during regular business hours.

The sales of all livestock at livestock auction markets shall start no later than 2:00 P.M.; provided, however, the Commissioner of Agriculture shall have authority to authorize a sale to begin as late as 4:00 P.M. when the sale (i) consists solely of the sale of pigs weighing no more than 150 pounds and sold as feeder pigs, (ii) continues without interruption, and (iii) lasts no later than 5:00 P.M., or when the sale consists solely of slaughter hogs sold by teleconference. The sale of livestock shall be continuous until all are sold.

Each public livestock market operator operating under this Article shall post notice of the day(s) of sale and the starting time in a conspicuous place on the market premises. In the event of subsequent changes in day of sale or starting time, the operator shall post notice on the premises and notify the State Veterinarian in writing at least two weeks in advance of the date of change.

(1941, c. 263, s. 3; 1949, c. 997, s. 1; 1961, c. 275, s. 1; 1967, c. 894, s. 5; 1969, c. 983; 1971, c. 739, s. 2; 1987, c. 436.)

§ 106-408.1. Market operation fees.

A fee of twenty-five dollars (\$25.00) shall be paid by the market operator to the North Carolina Department of Agriculture and Consumer Services for each day, or fraction thereof, a sale is held, provided that an additional maximum fee of ten dollars (\$10.00) per one-half hour, or fraction thereof, shall be paid to the North Carolina Department of Agriculture and Consumer Services for operation after 6:00 P.M. Provided further, that the Board of Agriculture may at its discretion adjust both fees for market operation within the limits set in this section. A fee to be set by the Board of Agriculture may be charged to the buyer of cattle and swine required to be tested under G.S. 106-409 and 106-410, and the amount collected used to offset the twenty-five dollar (\$25.00) market operation fee. All test fees charged in excess of twenty-five dollars (\$25.00) shall revert to the North Carolina Department of Agriculture and Consumer Services and be payable within 24 hours following the close of a sale day. The starting and finishing time of each sale shall be recorded by the livestock inspector on his report of the sale. A copy of the report shall be given to the market operator or his representative following the sale. Failure to make the required payment within 24 hours following close of a sale day shall be cause for the Commissioner of Agriculture to prohibit, on 72 hours' notice, further sales at the market until the account is paid in full. The operation fee shall be waived when a livestock market operator employs a licensed, accredited veterinarian approved by the State Veterinarian to be present at the market from the starting time of the sale until all livestock to be admitted to the sales barn on that sale day have entered and such work in inspection, testing and vaccination as designated by the State Veterinarian has been completed. (1971, c. 739, s. 3; 1997-261, s. 109.)

§ 106-409. Removal of cattle from market for slaughter and nonslaughter purposes; identification; permit needed.

No cattle except those for immediate slaughter, shall be removed from any public livestock market except in accordance with this Article and regulations adopted by the North Carolina Board of Agriculture. All cattle removed from any public livestock market for immediate slaughter shall be identified in a manner approved by the Commissioner of Agriculture and the person removing same shall before removal sign a form in duplicate showing the number of cattle, their description, and where same are to be slaughtered or resold for slaughter. Cattle sold for slaughter shall be disposed of in one of the following ways:

- (1) Moved directly to a recognized slaughtering establishment for immediate slaughter.
- (2) Sold to a dealer bonded under the Packers and Stockyards Act who handles cattle for immediate slaughter.
- (3) Offered for resale for slaughter through a livestock auction market holding a valid permit issued under this Article.

A "buying station" of a slaughterhouse or similar business not operating under a public livestock market permit shall not allow the removal of animals for any purpose other than that of immediate slaughter unless a written permit has been secured from the State Veterinarian or his authorized representative. This provision shall not apply to buying stations operated by feedlot operators buying animals for movement to their own feedlots.

Cattle sold for immediate slaughter shall be used for no other purpose unless prior written permission has been secured from the State Veterinarian or his authorized representative. No livestock market operator, or agent or employee thereof, shall allow the removal of any cattle from a market in violation of this section. (1941, c. 263, s. 4; 1943, c. 724, s. 2; 1949, c. 997, s. 2; 1967, c. 894, s. 6.)

§ 106-410. Removal of swine from market for slaughter and nonslaughter purposes; identification; permit needed; resale for feeding or breeding; out-of-state shipment.

No swine, except those for immediate slaughter, shall be removed from any public livestock market except in accordance with regulations adopted by the North Carolina Board of Agriculture. All swine removed from any public livestock market for immediate slaughter shall be identified in a manner prescribed by regulation adopted by the North Carolina Board of Agriculture and the person removing same shall sign a form in duplicate showing the number of hogs, their description and where they are to be slaughtered or resold for slaughter. Slaughter hogs may be disposed of in one of the following ways:

- (1) Moved directly to a recognized slaughter establishment for immediate slaughter.
- (2) Sold to a dealer, bonded under the Packers and Stockyards Act, who handles hogs for immediate slaughter.
- (3) Offered for resale for slaughter through a livestock auction market holding a valid permit issued under this Article.

Swine sold for immediate slaughter shall be used for no other purpose unless prior written permission has been secured from the State Veterinarian or his authorized representative. No market operator shall allow the removal of any swine from a market in violation of this section.

Swine for breeding or feeding purposes shall not be resold in a livestock market for other than immediate slaughter within 14 days of prior sale at a livestock market unless they are identified as having been previously sold swine at the time of resale. Such identification shall contain the date and place of the prior sale and shall be furnished in writing to the market operator by the seller of said swine.

Provided, however, that the Commissioner of Agriculture may permit swine to be shipped out of the State of North Carolina, under the same conditions as if said swine were being delivered for immediate slaughter, for immediate delivery to holding or feeding lots in any other state when he determines that said holding or feeding lots are being operated in compliance with the laws of said state and the rules and regulations promulgated thereunder. (1941, c. 263, s. 5; 1943, c. 724, s. 3; 1949, c. 997, ss. 3, 4; 1967, c. 894, s. 7; 1971, c. 739, s. 5.)

§ 106-411. Regulation of use of livestock removed from market; swine shipped out of State.

Any person or persons who shall remove, or whose agent or employee at the direction of the employer, shall remove from a public livestock market any cattle, swine, or other livestock for immediate slaughter shall use them for immediate slaughter only or resale for immediate slaughter only in compliance with this Article and the applicable regulations of the Department of Agriculture and Consumer Services. It shall be a Class 1 misdemeanor for the owner of any cattle, swine or other livestock purchased for immediate slaughter, to order, direct or procure his agent or employee to transport said cattle, swine, or other livestock to any place other than a recognized

slaughter plant or as provided in G.S. 106-409 and G.S. 106-410; and the agent or employee who transports said animal or animals shall likewise be guilty of a Class 1 misdemeanor.

Provided that, it shall not be a violation of law to ship swine out of this State to holding or feeding lots as provided for in G.S. 106-410. (1941, c. 263, s. 6; 1943, c. 724, s. 4; 1949, c. 997, s. 5; 1967, c. 894, s. 8; 1993, c. 539, s. 779; 1994, Ex. Sess., c. 24, s. 14(c); 1997-261, s. 109.)

§ 106-412. Admission of animals to markets; quarantine of diseased animals; sale restricted; regulation of trucks, etc.

No animal known to be affected with or having visible symptoms of a contagious or infectious disease shall be received or admitted into any public livestock market except upon special permit issued by the Commissioner of Agriculture or his authorized representative. All animals affected with, or exposed to, any contagious or infectious disease of animals or any animal that reacts to an official test indicating the presence of such a disease, shall be quarantined separate and apart from healthy animals and shall not be sold, traded, or otherwise disposed of except upon written permission of the Commissioner of Agriculture or his authorized representative. All animals sold for slaughter under this provision must be moved directly to a recognized slaughter establishment with State or federal meat inspection unless written permission to do otherwise is secured from the State Veterinarian or his authorized representative. The owner of the animals shall be responsible for the cost of maintaining the quarantine, the necessary treatment, and the feed and care of the animals while under quarantine and said costs shall constitute a lien against all of said animals. All trucks, trailers, and other conveyances used in transporting livestock shall be cleaned and disinfected in accordance with the regulations issued by authority of this Article. (1941, c. 263, s. 7; 1967, c. 894, s. 9.)

§ 106-413. Sale, etc., of certain diseased animals restricted; application of Article; sales by farmers.

No person or persons shall sell or offer for sale, trade or otherwise dispose of any animal or animals that are affected with a contagious or infectious disease, or that the owner or person in charge or a livestock inspector or an approved veterinarian has reason to believe are so affected or exposed; provided, however, that upon written permission of the Commissioner of Agriculture or his authorized representative it shall be lawful to sell, trade, or otherwise dispose of such animals for immediate slaughter at a plant with State or federal meat inspection. The provisions of this Article, including those regulations adopted by the North Carolina Board of Agriculture, shall apply to all animals sold or offered for sale on any public highway, right-of-way, street, or within one-half mile of any public livestock market, or other public place; provided, that the one-half mile provision shall not apply to animals raised and owned by a bona fide farmer who is a resident of the State of North Carolina and sold or offered for sale by him. (1941, c. 263, s. 8; 1943, c. 724, s. 5; 1967, c. 894, s. 10.)

§ 106-414. Transportation, sale, etc., of diseased livestock; burden of proving health; movement to laboratory; removal of identification.

No cattle, swine, or other livestock with visible symptoms of a contagious or infectious disease shall be transported or otherwise moved on any public highway or street in this State except upon written permission of the Commissioner of Agriculture or his authorized representative. The burden of proof to establish the health of any animal transported on the public highways of this

State, or sold, traded, or otherwise disposed of in any public place shall be upon the vendor. Any person who shall sell, trade, or otherwise dispose of any animal affected with, or exposed to, a contagious or infectious disease, or one he has or should have reason to believe is so affected, or exposed, shall be civilly liable for all damages resulting from such sale or trade; provided that, nothing in this section shall prevent an individual who owns or has custody of sick animals from transporting sick or dead animals to a disease diagnostic laboratory operated or approved by the North Carolina Department of Agriculture and Consumer Services if reasonable and proper precautions to prevent the exposure of other animals is taken by the owner or transporter thereof.

It shall be a Class 1 misdemeanor to remove before slaughter any ear tag, back tag, or other mark of identification approved by the Commissioner of Agriculture for identifying animals for disease control purposes unless prior written authorization has been obtained from the State Veterinarian or his authorized representative. (1941, c. 263, s. 9; 1967, c. 894, s. 11; 1993, c. 539, s. 780; 1994, Ex. Sess., c. 24, s. 14(c); 1997-261, s. 109.)

§ 106-415. Cost of tests, serums, etc.

The cost of all tests, serums, vaccines and other medical supplies necessary for the enforcement of this Article and the protection of livestock against contagious and infectious diseases shall be paid for by the owner of said livestock and the cost shall constitute a lien against all said animals; provided that, the Commissioner of Agriculture, by and with the consent of the Board of Agriculture, is hereby authorized to determine reasonable charges and costs for such tests, serums, vaccines, and other medical supplies; provided further, that an animal which shows a reaction to a test for brucellosis shall be automatically "no-saled" and resold for immediate slaughter and the cost of the test paid by the original seller. (1941, c. 263, s. 10; 1949, c. 997, s. 6; 1957, c. 1269; 1967, c. 894, s. 12.)

§ 106-416. Rules and regulations.

The Commissioner of Agriculture, by and with the consent of the State Board of Agriculture, shall have full power to promulgate and enforce such rules and regulations that may be necessary to carry out the provisions of this Article. This power shall include, but not be confined to, the authority to designate a time after which livestock shall not be allowed to enter a sales barn on the day of a sale. (1941, c. 263, s. 11; 1967, c. 894, s. 13; 1971, c. 739, s. 4.)

§ 106-417. Violation made misdemeanor; responsibility for health, etc., of animals.

Any person, firm, or corporation who shall knowingly violate any provisions set forth in this Article or any rule or regulation duly established by the State Board of Agriculture, or any officer or inspector who shall willfully fail to comply with any provisions of this Article, shall be guilty of a Class 1 misdemeanor. A market operating under this Article shall not be responsible for the health or death of an animal sold through such market if the provisions of this Article have been complied with. (1941, c. 263, s. 12; 1943, c. 724, s. 6; 1967, c. 894, s. 14; 1993, c. 539, s. 781; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 106-417.1. Civil penalties.

The Commissioner may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In

determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 9; 1998-215, s. 13.)

§ 106-418. Exemption from health provisions.

The health provisions of this Article shall not apply to "no-sale" cattle offered for sale at a public livestock market by a bona fide farmer who has owned them at least 60 days. (1941, c. 263, s. 12 1/2; 1967, c. 894, s. 15.)